



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

September 18, 1998

Mr. John Steiner  
Division Chief  
City of Austin--Law Dept  
P. O. Box 1546  
Austin, Texas 78767-1546

OR98-2245

Dear Mr. Steiner:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 118694.

The Austin Police Department (the "department") received an open records request for a tape recording of the 911 call made during an incident in which a man was shot and killed. You contend that the requested information is excepted from required public disclosure pursuant to sections 552.103 and 552.108 of the Government Code.

Section 552.108(a)(1) of the Government Code excepts from required public disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]" You have informed us that the tape recording pertains to a pending criminal investigation. Further, you have submitted to this office a letter from the Travis County District Attorney stating that the tape recording will serve as evidence in this case, which will be presented to the grand jury. We therefore conclude that you have met your burden of establishing that the release of the tape recording at this time could interfere with law enforcement or prosecution. *See Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). You therefore may withhold the requested information at this time pursuant to section 552.108(a)(1).<sup>1</sup>

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<sup>1</sup>Because we resolve your request under section 552.108(a)(1), we need not address the applicability of section 552.103.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Yen-Ha Le". The signature is fluid and cursive, with the first name "Yen" and last name "Le" clearly distinguishable.

Yen-Ha Le  
Assistant Attorney General  
Open Records Division

YHL/RWP/nc

Ref.: ID # 118694

Enclosure: Submitted audiotape

cc: Mr. Bob Banta  
Austin American Statesman  
P.O. Box 670  
Austin, Texas 78767-0670  
(w/o enclosures)